THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No18921 of 2005

Date:20.09.2005

A.Lingaiah

--------PETITIONER

The Depot Manager and others

---------RESPONDENTS

ORDER:

The petitioner was appointed as a Conductor in Zaheerabad Depot of APSRTC. While he was conducting a bus on the route from Bidar to Hyderabad, a surprise check was caused on 27.08.2000. It was found that he did not collect fare and issue ticket to one passenger. Disciplinary proceedings were initiated against the petitioner. He pleaded that there were 66 passengers in all, and that due to heavy rush and on account of the fact that the passenger in question was in a drunken condition, he could not collect the fare and issue ticket. In the departmental enquiry, the charge levelled against the petitioner was proved. On the basis of the same, the Depot Manger passed an order, dated 31.03.2001, removing the petitioner from service. The appeal and review filed by the petitioner were of no avail. Therefore, he filed I.D.No.66 of 2002 before the Labour Court-II, Hyderabad. Through its award dated, 29.07.2004, the Labour Court upheld the findings recorded against the petitioner, but set aside the order of removal and directed that the petitioner be taken into service as a fresh conductor. The petitioner challenges the award passed by the Labour Court, insofar as it denied the benefit of past service and monetary benefits.

Sri B.H.R.Choudary, the learned counsel for the petitioner submits that admittedly there were as many as 66 passengers in the bus and that in the night, the petitioner could not notice one person, who was in a drunken

condition. He submits that the checking staff themselves were satisfied about the lapse on the part of the passenger and collected the fare of Rs.9/- and a fine of Rs.30/-. He contends that the Labour Court ought to have directed reinstatement with all consequential benefits.

Sri V.T.M.Prasad, the learned Standing Counsel for the respondents, on the other hand, submits that the dereliction on the part of the petitioner was evident from the fact that he did not collect the fare from the passenger and that but for the check, the passenger would have travelled in the bus without ticket. He contends that the past record of the petitioner is such that the relief granted by the Labour Court itself is too liberal.

The charge leveled against the petitioner was that he did not collect the fare from a passenger and issue a ticket. That allegation was proved. The petitioner pleaded his innocence in this regard. The Depot Manager removed the petitioner from service on account of the said lapse. The Labour Court upheld the findings recorded during the departmental proceedings. However, it took the view that the punishment inflicted upon the petitioner is disproportionate to the charge proved against him.

When it came to the question of imposing the adequate alternative punishment, the Labour Court examined whether there are any extenuating circumstances in favour of the petitioner. The record, however, discloses that the petitioner was removed from service on earlier occasion, for similar charges and came to be reinstated by virtue of the award passed in I.D.No.100 of 1992. It was in this context that the Labour Court directed reinstatement of the petitioner as a fresh conductor. Strictly speaking, no interference is called for with this order.

The record, however, discloses that the petitioner has already put in 24 years of service and that he is almost at the verge of retirement. The order of fresh appointment would disentitle him from claiming the benefits that have accrued to him, on account of his long service. Once the petitioner is reinstated, the

denial of benefit of his past service does not appear to be reasonable. It is true that the Corporation cannot be mulcted with any financial liability, on account of such reinstatement, in the form of back wages or notional increments etc.

For the foregoing reason, the writ petition is partly allowed, modifying the award of the Labour Court in I.D.No.66 of 2002 to the extent that the petitioner shall be reinstated into service without any benefit of back wages or continuity of service. However, he shall be entitled to count the past service, exclusively for the purpose of calculation of retirement benefits. There shall be no order as to costs

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20.09.2005

Jsu